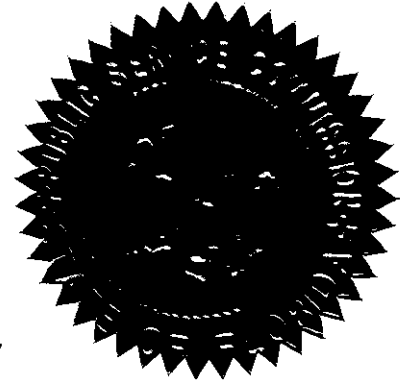


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 070736-TP

In the Matter of:

PETITION BY INTRADO COMMUNICATIONS,
INC. FOR ARBITRATION OF CERTAIN
RATES, TERMS, AND CONDITIONS FOR
INTERCONNECTION AND RELATED
ARRANGEMENTS WITH BELLSOUTH
TELECOMMUNICATIONS, INC. D/B/A AT&T
FLORIDA, PURSUANT TO SECTION 252(B)
OF THE COMMUNICATIONS ACT OF
1934, AS AMENDED, AND SECTIONS 120.80
(13), 120.57(1), 364.15, 364.16,
364.161, AND 364.162, F.S., AND RULE
28-106.201, F.A.C.



PROCEEDINGS: PREHEARING

BEFORE: COMMISSIONER LISA POLAK EDGAR
PREHEARING OFFICER

DATE: Monday, June 16, 2008

TIME: Commenced at 2:30 p.m.
Concluded at 2:45 p.m.

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: JANE FAUROT, RPR
Official FPSC Reporter
(850) 413-6732

DOCUMENT NUMBER-DATE

FLORIDA PUBLIC SERVICE COMMISSION 05876 JUN 23 8

FPSC-COMMISSION CLERK

1 PARTICIPATING:

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4 Suite 400, Tallahassee, Florida 32303-1561, representing AT&T
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6 CHÉRIE R. KISER, ESQUIRE, Cahill Law Firm, 1990 K
7 Street N.W., Suite 950, Washington, DC 20006, and REBECCA
8 BALESTEROS, ESQUIRE, Intrado Communications Inc., 1601 Dry
9 Creek Drive, Longmont, Colorado 80503-6493, representing
10 Intrado Communications Inc.

11 LEE ENG TAN, ESQUIRE, FPSC General Counsel's Office,
12 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850,
13 appearing on behalf of the Commission Staff.

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P R O C E E D I N G S

COMMISSIONER EDGAR: Good afternoon. I call this prehearing to order, and we'll begin by asking staff to read the notice.

MS. TAN: Pursuant to notice filed on May 30th, 2008, this time and place has been set for a prehearing conference in Docket Number 070736-TP, in re, petition for Intrado Communications, Inc. for arbitration of certain rates, terms, and conditions for interconnection and related arrangements with BellSouth Telecommunication, Inc., d/b/a AT&T Florida, pursuant to Section 252(b) of the Communications Act of 1934, as amended, and Section 120.80(13), and 120.57(1), 364.15, 364.16, 364.161, and 364.162, Florida Statutes, and Rule 28-106.201, Florida Administrative Code.

COMMISSIONER EDGAR: Thank you.

And we'll take appearances.

MR. HATCH: Tracy Hatch and Phil Carver appearing for AT&T Florida.

COMMISSIONER EDGAR: Thank you.

MR. SELF: Floyd Self for Intrado Comm.

MS. KISER: Chérie Kiser and Rebecca Ballesteros for Intrado Communications.

COMMISSIONER EDGAR: And Staff.

MS. TAN: Lee Eng Tan on behalf of staff.

COMMISSIONER EDGAR: Okay. Before we go through the

1 draft prehearing order, any other matters that would be good to
2 bring up as preliminary at this time?

3 **MS. TAN:** There are none.

4 **COMMISSIONER EDGAR:** Okay. Then, as always, we will
5 walk our way quickly through the draft prehearing order. If
6 there are any concerns, questions, or clarifications, please
7 speak right up. And we will begin with Section I. No changes?

8 Section II.

9 Okay. Let me back up, then. Section I, the copy I
10 have does not have Issue 26 listed.

11 **MS. TAN:** That is correct. We will be adding that in
12 the new prehearing order.

13 **COMMISSIONER EDGAR:** Okay. So noted.

14 Section II. Section III. Section IV. Section V.
15 Section VI, order of witnesses.

16 **MR. CARVER:** Yes. I'm sorry, go ahead.

17 **MS. KISER:** Thank you.

18 We would like to revise the order of Intrado Comm's
19 witnesses so that Ms. Spence-Lenss will go first, followed by
20 Ms. Clugy, followed by Mr. Hicks, and Mr. Melcher will follow
21 Mr. Hicks, rather than appearing at the end, as long as staff
22 has no issue with that recommendation.

23 **COMMISSIONER EDGAR:** And from AT&T, do you have any
24 requested changes or concerns about the proposed changes?

25 **MR. CARVER:** No. I think actually what she said took

1 care of something I was going to raise, so I have nothing
2 further.

3 COMMISSIONER EDGAR: Okay. So what we are proposing
4 is reordering slightly the way it's is listed in this draft so
5 that we would have Ms. Spence-Lenss, Ms. Clugy, Mr. Hicks, Mr.
6 Melcher, Ms. Pellerin, Mr. Neinast?

7 MR. CARVER: Neinast, yes.

8 COMMISSIONER EDGAR: Staff.

9 MS. TAN: Staff has no problem with those changes.

10 COMMISSIONER EDGAR: Okay. We will reorder the list
11 as described. Is there the possibility of stipulating any
12 witnesses?

13 MS. KISER: Not at this time.

14 MR. CARVER: No.

15 COMMISSIONER EDGAR: And for Mr. -- excuse me. We
16 will be taking up direct and rebuttal at the same time for
17 those witnesses that have both?

18 MR. CARVER: Yes.

19 COMMISSIONER EDGAR: Good.

20 Okay, we will move on. Section VII, basic positions.
21 Any changes?

22 MR. CARVER: None.

23 COMMISSIONER EDGAR: Hearing none. Section VIII.
24 Section IX.

25 MS. TAN: Commissioners, staff would note that we

1 will prepare a comprehensive exhibit list consisting of all
2 prefiled exhibits for the purposes of numbering and identifying
3 the exhibits at hearing. We will be providing the exhibit list
4 to the parties as soon as possible following the discovery
5 deadline.

6 Staff also intends to prepare a proposed stipulated
7 exhibit composed of certain discovery responses and deposition
8 transcripts which it will provide to the parties in advance of
9 the hearing. Staff will also be preparing an acronym list to
10 be included in the exhibit list.

11 **COMMISSIONER EDGAR:** Thank you.

12 Any other comments?

13 **MR. SELF:** Yes, Commissioner.

14 For Intrado Comm, in looking at the titles of the
15 exhibits, I think it may be TH-3. There's one of the issues,
16 and it may well be this one here, that we're going to revise so
17 it would reflect Florida cities and not California cities. My
18 understanding is that would be the only change, and we will
19 certainly try and get that done in the next day or two. And if
20 AT&T has any issues with that, I'm sure they will let us know.

21 **COMMISSIONER EDGAR:** Okay. So a substitute exhibit
22 for TH-3 will be forthcoming. Any concerns?

23 **MR. CARVER:** No, that's fine.

24 **COMMISSIONER EDGAR:** Okay. So noted. Section X.
25 Section XI. I'll look to staff.

1 **MS. TAN:** Commissioners, there is a pending motion to
2 strike by AT&T, if he could speak on that issue.

3 **MR. CARVER:** I think we have a resolution of the
4 issue, but I think the resolution would require your approval
5 because it would involve filing additional testimony. But
6 basically we would move to strike the testimony of Mr. Melcher
7 and request that in the alternative that we be allowed to file
8 supplemental rebuttal testimony.

9 And the parties have agreed that Mr. Melcher's
10 testimony may stay in and that the proffered supplemental
11 rebuttal testimony of AT&T witness Mr. Neinast would also be
12 allowed in. And I think since we're putting in additional
13 testimony, we would need your approval for that. But if that
14 is acceptable then we would withdraw the motion to strike.

15 **MS. KISER:** No objection.

16 **MS. TAN:** Staff would have no problem with that.

17 **COMMISSIONER EDGAR:** Okay. So we will take that
18 under advisement, and we will act on it at some time after
19 today prior to the hearing.

20 **MR. CARVER:** Thank you.

21 **COMMISSIONER EDGAR:** Thank you. Section XII.

22 **MS. TAN:** Commissioners, there is one pending
23 confidentiality motion which we will be taking care of prior to
24 the start of the hearing.

25 **COMMISSIONER EDGAR:** That works for me. Does that

1 work?

2 MS. KISER: That's fine.

3 COMMISSIONER EDGAR: Okay. Then we will move on to
4 Section XIII, post-hearing statements. Is there a desire to
5 increase the page limit?

6 MS. KISER: Yes, there is a desire to increase the
7 page limit. There are a number of issues. I have no idea
8 how -- I think there are more issues in this particular
9 arbitration than there are in the other arbitration before the
10 Commission, and so we would propose moving the brief to 60
11 pages.

12 COMMISSIONER EDGAR: We did change the limit in the
13 previous prehearing from 40 to 50. You all know my preference
14 for brevity and concise writing, but let me look to AT&T. Do
15 you have a recommendation?

16 MR. CARVER: I think 50 would be sufficient for
17 AT&T's purposes, but I have no objection to the limit being 60.
18 But I just don't think we happen to need it.

19 COMMISSIONER EDGAR: Staff.

20 MS. TAN: Staff has no problem with either amount.
21 It would be your discretion.

22 COMMISSIONER EDGAR: Okay. We'll put it at 60.

23 MS. KISER: Thank you.

24 COMMISSIONER EDGAR: You're welcome; which is
25 obviously not a mandatory requirement.

1 **MS. KISER:** Understood.

2 **COMMISSIONER EDGAR:** Then that brings us to
3 Section XIV. And I believe that we need to have some
4 discussion about opening statements or in lieu of an opening
5 presentation by each party.

6 Who would like to start?

7 **MS. TAN:** I can go ahead and speak on this one. What
8 staff would like would be an opening presentation which would
9 be no more than ten minutes per party. Staff recommends
10 allowing for multi-media, however, all information to be used
11 by the opening presentation must be based on evidence already
12 in record. We believe that there should be one designated
13 witness only who is sworn and then available for cross at the
14 time of their cross-examination.

15 **COMMISSIONER EDGAR:** Okay. And that is in keeping
16 with my understanding and thoughts, as well. For AT&T, do you
17 have comment?

18 **MR. CARVER:** Yes. I only have one concern about
19 that, and that's that I think, if it's going to be ten minutes,
20 it make sense to have one witness do the entire presentation.
21 But the testimony, given the nature of the issues, is divided
22 up among a number of witnesses and I don't think there is any
23 one witness that could answer all of the potential Commission
24 questions on all topics. So I think doing it this way there is
25 at least a possibility that the Commissioners may have

1 questions of that witness that the witness is not able to
2 answer.

3 **COMMISSIONER EDGAR:** I'm sorry, I did not mean to
4 interrupt you.

5 **MR. CARVER:** No, I was just going to say I don't
6 think that is necessarily an unworkable problem, it is just
7 that it is the kind of thing I understand that there would be
8 cross-examination on the presentation and depending -- I'm
9 sorry, not cross-examination, but as I understood it questions
10 from the Commission, or would there actually be
11 cross-examination?

12 **MS. TAN:** What we believe would be appropriate would
13 be that if the Commissioners would have questions they may ask
14 them at that time; however, then the witnesses will be
15 available during their cross examination for any questions that
16 may arise from that.

17 **MR. CARVER:** Okay.

18 **COMMISSIONER EDGAR:** Excuse me, Ms. Tan. That was my
19 understanding and thinking, as well, but if there are questions
20 during those, again, I'm going to call it opening presentation
21 in lieu of opening statement -- if there are questions from
22 Commissioners, they will have the opportunity to be recognized
23 by the chair at his discretion, of course, to have those
24 responded to at that point in time.

25 I would not envision cross at that time. I would

1 expect then that witness to be available as we move through the
2 rest of the hearing. And if, indeed, a question were to arise
3 during that opening presentation that that opening presenter
4 was not in the position to answer, I would expect that one of
5 the later witnesses would be able to do so and would have that
6 opportunity.

7 **MR. CARVER:** Okay. That would work then.

8 **COMMISSIONER EDGAR:** Then I'll ask staff to make
9 those changes as we have just discussed to the proposed order
10 that will issue soon. Any other comments?

11 Yes, Mr. Self.

12 **MR. SELF:** I'm sorry, Commissioner. Just to be up
13 front about this, there could potentially be a question from
14 one of the Commissioners during the opening presentation that
15 might actually be the subject of one of the other witnesses
16 such that the presenter may say, well, I think your answer is
17 X, but Witness Z could tell you in more detail. And then I
18 guess it would be up to the Chairman's discretion as to, you
19 know, that question would then be reserved until that witness
20 came up later, or I don't know if the sense of the Commission
21 would be, well, can I ask that questions now because it's just
22 a burning question. I just don't know how that would play out.
23 And I think to some extent that is what Mr. Carver was trying
24 to get to.

25 **MR. CARVER:** Actually, I had a similar but slightly

1 different concern. My concern is that if the witness gave the
2 presentation over the entire case and let's say, for example, a
3 Commissioner wanted to know about a particular area that was
4 not within the scope of that witness' testimony. There's a
5 possibility they might say I don't know five, six, or seven
6 times in a row, and I just wanted to be sure that everyone
7 understands that to the extent they can answer the
8 Commissioners' questions they will be happy to try, but they
9 may not be able to.

10 **COMMISSIONER EDGAR:** Which is really not unusual for
11 any hearing. I mean, occasionally there are questions that a
12 particular witness is not situated such that they can be
13 responsive. I certainly will leave it to the discretion of the
14 chair during the hearing, however, my expectation would be that
15 probably in most instances those questions would be able to be
16 held in reserve and the witness or the attorneys certainly
17 could recommend a future witness that would perhaps be in a
18 better situation or better positioned to be responsive.

19 Again, I personally am a fan of opening statements.
20 I like opening statements. But realizing that some of the
21 nature and unique specifics of this case to try it this way
22 with the opening presentations from the sworn witness, I'm
23 certainly open to doing that. And, therefore, I would expect
24 that we would all work together to make that work for
25 everybody.

1 **MR. SELF:** Thank you.

2 **COMMISSIONER EDGAR:** Thank you.

3 **MR. CARVER:** Thank you.

4 **COMMISSIONER EDGAR:** That brings us to Section XIV,
5 which we have actually just finished. That brings us to other
6 matters. Any other matters that we have not yet addressed?

7 All right. I will run through the dates real quick.
8 My understanding is that the hearing is scheduled for
9 July 10th; the transcript is to be available July 21st; briefs
10 are to be due August 7th.

11 Any our comments, questions, clarifications?

12 **MR. CARVER:** Is there any possibility that we could
13 have a little more time on the brief? Like, perhaps,
14 three weeks from the time that -- I think as it is we have 16
15 or 17 days from the time the transcript comes out. If we could
16 have a full three weeks that would be really helpful.

17 **COMMISSIONER EDGAR:** I do not have a calendar in
18 front of me, so let me look to staff. I'm not sure what their
19 timelines would need to be, as well, once those briefs come in.
20 We always try to accommodate requests for time; but I do, of
21 course, want to make sure that our staff has the time also to
22 do what they need to do realizing other docket requirements, et
23 cetera. So I'll give them a moment to look.

24 **MS. KISER:** Mr. Carver, were you proposing
25 August 14th, then?

1 **MR. CARVER:** Well, I was actually proposing --

2 **MS. KISER:** I mean July.

3 **MR. CARVER:** I was actually proposing maybe not a
4 full week. I think maybe -- whatever the Monday is closest to
5 the 11th. Is the 11th a --

6 **MS. KISER:** It is the 11th.

7 **MR. CARVER:** Okay. The 11th was really what I was
8 proposing. That way we would have a full three weeks after we
9 get the transcript.

10 **MS. HELTON:** Madam Commissioner, one concern may be
11 Chapter 120 requires us to enter a final order -- I guess it
12 requires you to enter a final order within 90 days of the last
13 day of the hearing. So with the understanding of the parties
14 that that requires us to kick out the time for filing staff's
15 recommendation a little bit, we may extend beyond that date if
16 we can get a waiver from the parties to that effect. I don't
17 know why we couldn't work within those --

18 **MS. KISER:** Intrado Communications would be willing
19 to grant that waiver.

20 **MR. CARVER:** AT&T would, also.

21 **COMMISSIONER EDGAR:** Any other discussion on that
22 point at this time?

23 **MS. TAN:** Then staff would recommend the 14th of
24 August for the briefs to be due in this docket.

25 **COMMISSIONER EDGAR:** Okay. With the discussion that

1 we have had, we will have briefs due on August 14th, and that
2 is with the understanding that both parties have waived the
3 time limit for the final order to give staff additional time,
4 realizing the additional time that has been extended for
5 briefs. Does that work?

6 MS. KISER: Agreed.

7 COMMISSIONER EDGAR: Okay. Any other matters? No?

8 Okay. Then thank you all, and we are adjourned.

9 (The prehearing concluded at 2:45 p.m.)

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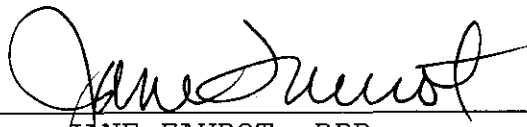
CERTIFICATE OF REPORTER

I, JANE FAUROT, RPR, Chief, Hearing Reporter Services Section, FPSC Division of Commission Clerk, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 23rd day of June, 2008.



JANE FAUROT, RPR
Official FPSC Hearings Reporter
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